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EAST KENTUCKY POWER COOPERATIVE, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SIERRA CLUB

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
AGRICULTURE, AND RURAL UTILITIES
SERVICE,

Defendant,

and

BRAZOS ELECTRIC POWER COOPERATIVE,
INC. AND EAST KENTUCKY POWER
COOPERATIVE, INC.

Intervenor-Defendants.

Case No. 08-4248 SC

**INTERVENOR-DEFENDANT
EAST KENTUCKY POWER
COOPERATIVE, INC.'S
ANSWER TO PLAINTIFF'S
AMENDED COMPLAINT**

1 Intervenor-Defendant, East Kentucky Power Cooperative, Inc. ("EKPC"), by and through its
2 undersigned counsel, hereby submits its Answer to Plaintiff's Amended Complaint for Declaratory
3 and Injunctive Relief. The paragraph numbers in this Answer correspond to the paragraph numbers
4 in Plaintiff's Amended Complaint.

5 1. The averments in Paragraph 1 characterize Plaintiff's Amended Complaint and
6 contain conclusions of law, to which no responsive pleading is required. To the extent Paragraph 1
7 may be construed to contain factual averments, those averments are denied.

8 2. Whether this Court has jurisdiction over this action is a conclusion of law, to which
9 no responsive pleading is required. EKPC is without knowledge or information sufficient to form a
10 belief as to the truth of the remaining averments in Paragraph 2 and therefore denies them.

11 3. Whether this case is properly assigned to the San Francisco division of this Court is a
12 conclusion of law, to which no responsive pleading is required. EKPC is without knowledge or
13 information sufficient to form a belief as to the truth of the remaining averments in Paragraph 3 and
14 therefore denies them.

15 4. EKPC is without knowledge or information sufficient to form a belief as to the truth
16 of the averments in Paragraph 4 and therefore denies them.

17 5. EKPC is without knowledge or information sufficient to form a belief as to the truth
18 of the averments in Paragraph 5 and therefore denies them.

19 6. EKPC is without knowledge or information sufficient to form a belief as to the truth
20 of the averments in Paragraph 6 and therefore denies them.

21 7. EKPC is without knowledge or information sufficient to form a belief as to the truth
22 of the averments in Paragraph 7 and therefore denies them.

23 8. EKPC admits that the United States Department of Agriculture ("USDA") is an
24 agency of the United States. EKPC is without knowledge or information sufficient to form a belief
25 as to the truth of the remaining averments in Paragraph 8 and therefore denies them.

26 9. EKPC admits that the Rural Utilities Service ("RUS") is an agency of the United
27 States. EKPC is without knowledge or information sufficient to form a belief as to the truth of the
28 remaining averments in Paragraph 9 and therefore denies them.

1 9. Plaintiff's Amended Complaint contains two paragraphs described as Paragraph 9.
2 The averments in the second Paragraph 9 are conclusions of law, to which no responsive pleading is
3 required.

4 10. The averments in Paragraph 10 are conclusions of law, to which no responsive
5 pleading is required.

6 11. The averments in Paragraph 11 are conclusions of law, to which no responsive
7 pleading is required.

8 12. The averments in Paragraph 12 are conclusions of law, to which no responsive
9 pleading is required.

10 13. EKPC is without knowledge or information sufficient to form a belief as to the truth
11 of the averments in Paragraph 13 and therefore denies them.

12 14. EKPC is without knowledge or information sufficient to form a belief as to the truth
13 of the averments in Paragraph 14 and therefore denies them.

14 15. EKPC is without knowledge or information sufficient to form a belief as to the truth
15 of the averments in Paragraph 15 and therefore denies them.

16 16. EKPC is without knowledge or information sufficient to form a belief as to the truth
17 of the averments in Paragraph 16 and therefore denies them.

18 17. EKPC is without knowledge or information sufficient to form a belief as to the truth
19 of the averments in Paragraph 17 and therefore denies them.

20 18. EKPC is without knowledge or information sufficient to form a belief as to the truth
21 of the averments in Paragraph 18 and therefore denies them.

22 19. EKPC is without knowledge or information sufficient to form a belief as to the truth
23 of the averments in Paragraph 19 and therefore denies them.

24 20. EKPC is without knowledge or information sufficient to form a belief as to the truth
25 of the averments in Paragraph 20 and therefore denies them.

26 21. EKPC is without knowledge or information sufficient to form a belief as to the truth
27 of the averments in Paragraph 21 and therefore denies them.
28

1 22. EKPC is without knowledge or information sufficient to form a belief as to the truth
2 of the averments in Paragraph 22 and therefore denies them.

3 23. EKPC is without knowledge or information sufficient to form a belief as to the truth
4 of the averments in the second sentence of Paragraph 23 and therefore denies them. The remaining
5 averments in Paragraph 23 are conclusions of law, to which no responsive pleading is required. To
6 the extent Paragraph 23 may be construed to contain factual averments, EKPC is without knowledge
7 or information sufficient to form a belief as to the truth of the averments and therefore denies them.

8 24. EKPC is without knowledge or information sufficient to form a belief as to the truth
9 of the averments in the second sentence of Paragraph 24 and therefore denies them. The remaining
10 averments in Paragraph 24 are conclusions of law, to which no responsive pleading is required. To
11 the extent Paragraph 24 may be construed to contain factual averments, EKPC is without knowledge
12 or information sufficient to form a belief as to the truth of the averments and therefore denies them.

13 25. The averments in Paragraph 25 are conclusions of law, to which no responsive
14 pleading is required. To the extent Paragraph 25 may be construed to contain factual averments,
15 EKPC is without knowledge or information sufficient to form a belief as to the truth of the
16 averments and therefore denies them.

17 26. The first sentence in Paragraph 26 is a conclusion of law, to which no responsive
18 pleading is required. EKPC is without knowledge or information sufficient to form a belief as to the
19 truth of the remaining averments in Paragraph 26 and therefore denies them.

20 27. EKPC is without knowledge or information sufficient to form a belief as to the truth
21 of the averments in Paragraph 27 and therefore denies them.

22 28. EKPC is without knowledge or information sufficient to form a belief as to the truth
23 of the averments in Paragraph 28 and therefore denies them.

24 29. The averments in Paragraph 29 are conclusions of law, to which no responsive
25 pleading is required.

26 30. The averment in Paragraph 30 is a conclusion of law, to which no responsive
27 pleading is required.
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